

**From:** Creswell, Michael [Creswell.Michael@epa.gov]  
**Sent:** 8/20/2020 7:37:30 PM  
**To:** Hicks, Matt [Hicks.Matthew@epa.gov]  
**Subject:** RE: Question on possible challenge period

## Ex. 5 AC/DP

**From:** Palmer, Leif <Palmer.Leif@epa.gov>  
**Sent:** Thursday, August 20, 2020 3:17 PM  
**To:** Hicks, Matt <Hicks.Matthew@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>  
**Subject:** RE: Question on possible challenge period

## Ex. 5 AC/DP

**From:** Hicks, Matt <Hicks.Matthew@epa.gov>  
**Sent:** Thursday, August 20, 2020 3:10 PM  
**To:** Palmer, Leif <Palmer.Leif@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>  
**Subject:** FW: Question on possible challenge period

See below some questions from FDEP staff attorney Ravi Sharma about what a challenge to EPA's approval of FL's assumption might look like and my initial thoughts in blue. My thoughts are provided for our internal consideration and not necessarily to share with FDEP.

### Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

Ravi is hoping to brief his client on this next Wednesday, Aug 26, and would like to talk before then. I'm out of the office until August 31<sup>st</sup> starting tomorrow so Kavita and Michael will likely need to run with this.

Thanks,

Matt

**From:** Sharma, Ravi <Ravi.Sharma@FloridaDEP.gov>  
**Sent:** Thursday, August 20, 2020 12:02 PM  
**To:** Hicks, Matt <Hicks.Matthew@epa.gov>  
**Subject:** Question on possible challenge period

Hi Matt,

We've had some questions from our client staff with regard to potential challenges for the assumption package at the federal level.

They seem especially concerned about the potential for DEP staff to be deposed etc., and what the most likely challenges to the agency action would be.

## **Ex. 5 Attorney Client (AC)**

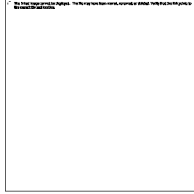
Do you have maybe some broad strokes on what likely challenges would look like during that period? And potential timelines on how long they may go on, and the possibility of delaying assumption?

## **Ex. 5 Attorney Client (AC)**

Note – I'd spoken to them about the potential for preliminary injunctions, how most challenges to agency action are for alleged violations of the APA, and any effect on DEP staff would depend on the nature of the challenge itself. It seems they're wanting something a bit more defined as to what challenges are most likely to occur, what the ensuing action would look like etc.

I'm to brief them next Wednesday, 26 Aug. If you're able to provide any info on the above it'd be very much appreciated.

Thanks very much,  
Ravi



**Ravi Sharma**

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